

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OFFICE OF THE CLERK

235 Pine Street  
San Francisco, CA 94104

Mailing Address:

P.O. Box 7341  
San Francisco, CA 94120-7341

E-filing

TRANSMITTAL FORM

**FILED**  
JUL 30 2008

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA

AUG 2

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RICHARD  
CLERK, U.S. D.  
NORTH DIST

RECEIVED  
Harold S. Maranus, Clerk  
U.S. BKCY. APPELLATE  
OF THE NINTH CIRCUIT

AUG 04 2008

FILED

DOCKETED 8/5/08 EB  
DATE INITIAL

TO: Bankruptcy Appellate Panel of the Ninth Circuit, 125 S. Grand Avenue, Pasadena, CA, 91105

BAP#NC-08-1195

CASE NAME:

BANKRUPTCY NO.:

ADVERSARY PROCEEDING: Miles v. Makishima et al

ADVERSARY NO.: 08-3037

BANKRUPTCY JUDGE: Thomas E. Carlson

DATE NOTICE OF APPEAL FILED: 7/29/08

DATE OF ENTRY OF ISSUE: 7/16/08

DATE BANKRUPTCY FILED:

NOTICE OF OBJECTION FILED: 7/23/08

DATE OF TRANSMITTAL: 7/30/08

PLEASE STAMP YOUR CASE NUMBER on a copy of this transmittal form and return the copy to the bankruptcy court.

**ANNA CHO-WONG**

Deputy Clerk Anna Cho-Wong

FILED

AUG 27 2008

M(11)  
422

**U.S. Bankruptcy Appellate Panel  
of the Ninth Circuit**

RICHARD  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

88-491 JSW

**E-filing**

125 South Grand Avenue, Pasadena, California 91105  
Appeals from Central California (626) 229-7220  
Appeals from all other Districts (626) 229-7225

**C 08 4091**

**In Re:** ROYCE LEE MAKISHIMA; TERRA  
ANN MAKISHIMA

**BAP No.:** NC-08-1195

**Bk. Ct. No.:** 07-27982

**ADV. NO.:** 08-03037

**JSW**

**NOTICE OF TRANSFER OF APPEAL TO DISTRICT COURT**

A party to the appeal has timely filed an objection to the disposition of this matter by the Bankruptcy Appellate Panel. See 28 USC Section 158. Consequently, this appeal is herewith transferred to District Court San Francisco, CA.

Please acknowledge receipt of the case file listed above by signing and returning a copy of this transmittal form.

Harold S. Marenus, BAP Clerk

By: Freddie Brown, Deputy Clerk  
Date: August 20, 2008

Please acknowledge receipt of  
the case file listed above.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

District Court Deputy

Assigned District Court No.

\_\_\_\_\_

cc: Bankruptcy Court  
All Parties

U.S. Bankruptcy Appellate Panel  
of the Ninth Circuit

E-filing

125 South Grand Avenue, Pasadena, California 91105  
Appeals from Central California (626) 229-7220  
Appeals from all other Districts (626) 229-7225

FILED

AUG 08 2008

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA

RECEIVED  
Harold S. Marenus, Clerk  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

JSW

AUG 14 2008

To: Clerk, Bankruptcy Court

Debtor(s): Royce Lee Makishima & Terra Ann Makishima

BAP No.: NC-08-1195

Bk. Ct. No.: 07-27982

ADV. NO.: 08-03037

FILED  
DOCKETED 8/14/08 FB  
DATE INITIAL

The Bankruptcy Appellate Panel has received and docketed the notice of appeal referenced in the attached transmittal. The BAP case number is indicated above for your information.

If completion of the record has been delayed, please advise us as to the cause of the delay by completing the following checklist and sending a copy of this letter back to us:

**IF THE RECORD ON APPEAL IS COMPLETE, PLEASE SEND THE CERTIFICATE OF READINESS**

Harold S. Marenus, BAP Clerk

By: Freddie Brown, Deputy Clerk

Date: August 5, 2008

**A) REASONS WHY THE RECORD HAS NOT BEEN COMPLETED. THE FOLLOWING ITEMS HAVE NOT BEEN FILED:**

- ☐ No Filing Fees paid
- ☐ No Designation of Record
- ☒ No Statement of Issues
- ☒ No Notice Regarding the Transcript
- ☐ No Reporter's Transcript(s)

Reporter name: \_\_\_\_\_  
phone: \_\_\_\_\_  
Judge: \_\_\_\_\_  
Transcript date(s): \_\_\_\_\_

- ☐ No Transcript Fees paid
- ☐ Extension of Time Granted to Reporter:  
New deadline: \_\_\_\_\_
- ☐ Other: \_\_\_\_\_

**B) DEPUTY CLERK PROCESSING THIS APPEAL**

1. Name: Anna Cho-Wong
2. Phone: 268-2388
3. Date: 8/12/08

69  
As

**FILED**

**JUL 30 2008**

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

**C 08**

**4091**

In re	
Grace Miles	Adversary no 08-3037 TC
Plaintiff(s)	
v.	
Royce Makishima, A.G. Edwards & Sons, Inc. and Terra Ann Makishima	
Defendant(s)/	

**NOTICE OF REFERRAL OF APPEAL TO BANKRUPTCY APPELLATE PANEL  
TO ALL PARTIES:**

YOU AND EACH OF YOU are hereby notified that the enclosed notice of appeal has been filed by **Grace Miles**, appellant with the Clerk of the Bankruptcy Court. By virtue of the orders of the Judicial

Council of the Ninth Circuit and the District Court for this district, the above appeal has been referred to the United States Bankruptcy Appellate Panel of the Ninth Circuit (BAP).

Dated: July 30, 2008

Gloria L. Franklin, Clerk  
United States Bankruptcy Court

**ANNA CHO-WONG**

By: \_\_\_\_\_  
Deputy Clerk, Anna Cho-Wong

**FILED**

JUL 29 2008

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA 94105

GRACE MILES  
21 Willow Rd.-22  
Menlo Park, CA 94025  
650.329.8785

UNITED STATES BANKRUPTCY COURT  
Northern District of California

In re  
ROYCE LEE MAKISHIMA and  
TERRA ANN MAKISHIMA,  
Debtors,

Case No. 08-03037

GRACE MILES,  
Plaintiff,

**NOTICE OF APPEAL**

v.

ROYCE LEE MAKISHIMA, et al.,  
Defendant(s).


Plaintiff Grace Miles ("Miles") files this "notice of appeal", not certain if she needs to, considering her other related filings, especially her "motion for leave to file a motion for reconsideration", but does so to protect herself/her case. This notice of appeal is for this Court's "order (1) granting defendants' motion to remand and (2) vacating hearings" ("the Order"), Miles apologizes If she did not need to do this, she does not know If this Is a final or Interlocutory order, or If It Is premature, and realizes that If she succeeds on her motion for leave to file a motion for reconsideration and hopeful subsequent granting of this and a different outcome, this was unnecessary.

Miles, most involuntarily Pro Se, does not fully understand the bankruptcy laws

1 and rules, despite diligent efforts to do so, and requests that this filing be construed  
2 with leniency. "Courts do and should show a leniency to Pro Se litigants not enjoyed  
3 by those with the benefit of a legal education." [GJR Investments, Inc. v. County of  
4 Escambia, Fla (11th Cir. 1998) 132 F3d 1359, 1369]. This is why Miles requested a  
5 stay to secure counsel. Miles files this notice of appeal, she believes, under 28 USC  
6 158(a)-(d) from the Order signed and filed by the Honorable Thomas E. Carlson on  
7 July 16, 2008, and entered on July 17, 2008. Miles request that her appeal, If  
8 necessary be a direct appeal to the Ninth Circuit. The names, addresses, and phone  
9 numbers of the currently named parties and their attorneys to the Order appealed from  
10 are as follows: Royce Lee Makishima, Terra Ann Makishima, A. G. Edwards & Sons,  
11 Inc., and Does 1-200, all in care of their attorney, Ms. Lindsey Schroeder, Morgan  
12 Lewis, 3000 El Camino Real, Suite 700, Palo Alto, CA 94306, 650.843.4000.  
13  
14

15  
16 Respectfully submitted,

17  
18  
19 July 28, 2008

20   
21 Grace Miles  
22 Pro Se  
23  
24  
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26  
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28





Entered on Docket

July 17, 2008

GLORIA L. FRANKLIN, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

Signed and Filed: July 16, 2008

UNITED STATES BANKRUPTCY COURT  
Northern District of CaliforniaI certify that this is a true, correct and full copy  
of the original document on file in my custody.Dated 7-20-08by *Anna Cho-Wong*  
Deputy ClerkTHOMAS E. CARLSON  
U.S. Bankruptcy JudgeUNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re	)	Case No. 07-27982 A7
	)	
ROYCE LEE MAKISHIMA and	)	Chapter 7
TERRA ANN MAKISHIMA,	)	
	)	(Pending in the United
	)	States Bankruptcy Court for
Debtors.	)	the Eastern District of
	)	California)
GRACE MILES,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Adv. Proc. No. 08-3037 TC
	)	
ROYCE LEE MAKISHIMA; A.G. EDWARDS &	)	
SONS, INC.; TERRA ANN MAKISHIMA,	)	
	)	
Defendants.	)	

ORDER (1) GRANTING DEFENDANTS' MOTION TO REMAND  
AND (2) VACATING HEARINGS

Upon due consideration, and for the reasons stated in the  
accompanying memorandum, the court hereby orders as follows:

- (1) Defendants' motion to remand is granted.
- (2) The court determines that oral argument would not be  
helpful and therefore vacates the hearing set for July 18, 2008 on  
the motion to remand.

1 (3) Because this court remands the entire action to state  
2 court and will not exercise jurisdiction over the action hereafter,  
3 (a) the status conference set for July 24, 2008 is vacated; and  
4 (b) the hearing set for August 29, 2008 on Plaintiff's motion to  
5 disqualify Morgan Lewis is vacated.

6 (4) The parties to this proceeding may not file a motion for  
7 reconsideration without first obtaining leave of the above-signed.  
8 Bankr. Local Rule 1001-2(b); Local Civ. Rule 7-9.

9 **\*\*END OF ORDER\*\***



Court Service List

Grace Miles  
21 Willow Road, Suite 22  
Menlo Park, CA 94025

Lindsey K. Schroeder, Esq.  
Morgan, Lewis and Bockius  
3000 El Camino Real, Suite 700  
Palo Alto, CA 94306

RECEIVED  
Harold S. Mangum, Clerk  
U.S. Bankruptcy Court  
OF THE NINTH CIRCUIT

**FILED**

JUL 29 2008

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA

AUG 04 2008

GRACE MILES

21 Willow Rd.-22

Menlo Park, CA 94025

650.329.8785, fax same, pls call 1st

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FILED

DOCKETED 8/5/08  
DATE F6  
NOTICE

E-filing

UNITED STATES BANKRUPTCY COURT  
Northern District of California

C 08

4091

JSW

In re

ROYCE LEE MAKISHIMA and

TERRA ANN MAKISHIMA,

Debtors,

Case No. 08-03037

GRACE MILES,

Plaintiff,

v.

ROYCE LEE MAKISHIMA, et al.,

Defendant(s).

**MOTION FOR LEAVE TO  
FILE A MOTION FOR  
RECONSIDERATION +  
PROPOSED ORDER**

Hon. Thomas E. Carlson

Plaintiff Grace Miles ("Miles"), files this motion for leave to file a motion for reconsideration since it was suggested/permitted in this Court's "order (1) granting defendants' motion to remand and (2) vacating hearings" ("the Order"), which was signed and filed on July 16, 2008, and to protect herself/her case. However, Miles position is still first and foremost that this Court did not have jurisdiction at the time the order was issued due to her July 8, 2008, filing of "motion to withdraw reference". Miles filed on July 23, 2008 an "objection to order and request to vacate/reverse" regarding this same order, and still respectfully requests this, but files this motion for leave in case her "objection to order and request to vacate/reverse" is denied.

Miles also respectfully requests, in the interests of justice, that this motion for leave

1 be construed with leniency as Miles is most involuntarily Pro Se, and does not fully  
2 understand these bankruptcy laws, including consent and non-consent, and that her action  
3 she now sees may and can be both, core and non-core. This is why Miles requested a  
4 stay to secure counsel, especially since she requested a jury trial. Miles case is of the  
5 greatest public importance, having to do with Human Rights abuses and Gender  
6 Violence, and she perseveres, not only for herself, but for all others in a similar situation  
7 who are unable to. "Courts do and should show a leniency to Pro Se litigants not  
8 enjoyed by those with the benefit of a legal education." [GJR Investments, Inc. v.  
9 County of Escambia, Fla. (11th Cir. 1998) 132 F3d 1359, 1369].

11 Miles requests leave to file a motion for reconsideration and her request is based on  
12 this motion and any other information Miles has presented/filed in this Court..

13 Miles was not permitted to present all the facts and/or law before the Order was  
14 issued, either via a complete written opposition or via oral argument, since this Court  
15 vacated the hearing on the motion for remand. There is a big difference in what was  
16 preliminarily presented by Miles and what could and should have been presented, had she  
17 been permitted to do so. Miles was not able to because her ex-parte and emergency  
18 efforts to obtain a stay, a continuance, a restraining/injunction order were not granted.  
19 Miles filed on July 3, 2008, an ex-parte motion to stay pending appeals, etc. In this  
20 motion, Miles requested immediate relief for a stay pending her appeals, giving her  
21 appeals case numbers and jurisdiction, and until she secured an attorney (Miles filed on  
22 May 29, 2008, a Request for Stay of Proceedings, to secure counsel). Miles showed  
23 good cause, especially due to her ill health and immediate irreparable injury without a  
24 stay. Then, Miles, not wanting to be penalized for not filing on a due date, and not  
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1 certain if she should or needed to due to her filed requests for immediate stay relief, and  
2 for disqualification of attorney Morgan Lewis, filed an incomplete, preliminary  
3 opposition to defendants' motion to remand, on July 8, 2008, stating that she reserved the  
4 right to correct and/or amend the filing.

5 On July 9, 2008, Judge Montali, in Judge Carlson's absence, denied Miles request  
6 for a stay, citing that there was no proof of service on defendants and that there was  
7 nothing to stay, and that if Miles wished to continue the July 18, 2008, hearing on motion  
8 to remand, that she could file a motion for continuance. Miles then filed an "emergency  
9 motion for stay pending appeals, etc., affidavit, & proposed order, on July 10 2008,  
10 stating that she had relied on FRCivP. 5(a)(D), in her motion for stay, which does not  
11 require service of an ex-parte written motion, and that there was also a status conference  
12 on calendar for July 24, 2008, and also a request to disqualify attorney Morgan Lewis.  
13 Also, taking Judge Montali's instruction, Miles filed a "motion for continuance, request  
14 for shortening of time & declaration & proposed order on July 11, 2008. Miles also filed  
15 a "corrected emergency motion for stay pending appeals, etc., affidavit, & proposed order  
16 on July 11, 2008. Finally, on July 16, 2008, Miles filed an "emergency  
17 request/motion/complaint for restraining and/or injunction order, declaration, proposed  
18 order. Also, this Court vacated the hearing on motion to remand, preventing Miles from  
19 presenting oral argument.


20 Because of the above and the fact that Miles showed good cause and urgency to  
21 prevent irreparable injury, Miles was unable to present the most important facts and law  
22 before the Order was entered, especially since she is better able to present via oral  
23 argument. Furthermore, since Miles is most involuntarily Pro Se, she did not know all  
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1 the facts and law, despite her diligent efforts to obtain them, to present to the Court prior  
2 to the Order. Despite Miles diligent efforts to learn the laws, etc. of this Court, it takes  
3 her a while to understand and find. There also exists the emergency of new material facts  
4 and law which Miles is able to present.

5 For all the reasons stated, and in any other filings of Miles, Miles respectfully  
6 requests that this Honorable Thomas E. Carlson, grant Miles leave to file a motion for  
7 reconsideration so that she may present her case. Miles requests that she have twenty  
8 days after decision of her appeal, currently in U.S. District Court, Sacramento Division,  
9 case no. 2:08-cv-01062, (**Exhibit A** is recent Order relating to this appeal) to file this  
10 motion for reconsideration. This appeal is from the related adversary proceeding in the  
11 Eastern Division of U.S. Bankruptcy Court, which Miles notified this Court of in her  
12 "notice of related adversary proceeding" filed July 3, 2008. Miles appreciates the  
13 Court's patience.  
14  
15

16  
17 Respectfully Submitted,

18  
19 July 28, 2008

  
\_\_\_\_\_  
Grace Miles  
Pro Se

20  
21  
22 I declare under penalty of perjury that the foregoing facts are true and correct. Executed  
23 on July 28, 2008, at Menlo Park, California.

24  
25   
\_\_\_\_\_  
Grace Miles

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

In re

Case No. 07-27982-A-7

ROYCE LEE MAKISHIMA and TERRA  
ANN MAKISHIMA,

Debtors.

GRACE MILES,

Adv. No. 08-2006

Docket Control No. None

Plaintiff,

vs.

ROYCE LEE MAKISHIMA and TERRA  
ANN MAKISHIMA,

Defendants.

ORDER

For the reasons stated in the accompanying Memorandum, the ex parte motion of plaintiff Grace Miles for a temporary restraining order is ORDERED DENIED. However, the parties are ORDERED to appear on August 11, 2008 at 9:00 a.m. in courtroom 28, U.S. Courthouse, 501 I Street, Sacramento, California to show cause why the court should not issue a preliminary injunction. Opposition to the issuance of a preliminary injunction, if any, shall be filed and served no later than August 5.



1 RICHARD W. ESTERKIN (70769)  
2 resterkin@morganlewis.com  
3 ASA S. HAMI (210728)  
4 ahami@morganlewis.com  
5 MORGAN, LEWIS & BOCKIUS LLP  
6 300 South Grand Avenue  
7 Twenty-Second Floor  
8 Los Angeles, CA 90071-3132  
9 Tel: 213-612-2500  
10 Fax: 213-612-2501

11 DARYL S. LANDY (136288)  
12 dlandy@morganlewis.com  
13 LINDSEY K. SCHROEDER (245425)  
14 lschroeder@morganlewis.com  
15 MORGAN, LEWIS & BOCKIUS LLP  
16 2 Palo Alto Square  
17 3000 El Camino Real, Suite 700  
18 Palo Alto, CA 94306-2212  
19 Tel: 650-843-4000  
20 Fax: 650-843-4001

21 Attorneys for Appellees  
22 Royce Lee Makishima and Terra Ann Makishima

23 UNITED STATES DISTRICT COURT  
24 EASTERN DISTRICT OF CALIFORNIA  
25

26 In re:

27 ROYCE LEE MAKISHIMA, TERRA  
28 ANN MAKISHIMA,

Debtor(s).

GRACE MILES,

Appellant,

v.

ROYCE LEE MAKISHIMA, TERRA  
ANN MAKISHIMA

Appellee(s).

District Case No. 2:08-CV-01062-JAM

Bankruptcy Case No. 07-27982-A-7

**ORDER DEFERRING BRIEFING ON  
APPEAL**

Date: [None Set]  
Time: [None Set]  
Place: Department 6

Judge: Hon. John A. Mendez

MORGAN, LEWIS &  
BOCKIUS LLP  
ATTORNEYS AT LAW  
PALO ALTO

DB2/20766708.1

[PROPOSED] ORDER DEFERRING  
BRIEFING ON APPEAL  
(CASE NO.: 2:08-CV-01062-JAM)



1 This Court, having considered the initial *ex parte* motion of appellees Royce Lee  
2 Makishima and Terra Ann Makishima (together, "Appellees") for an Order deferring the briefing  
3 on the above-captioned appeal (the "Motion"), and good cause appearing therefor, it is hereby

4 **ORDERED** as follows:

5 1. The Motion is granted.

6 2. The briefing schedule issued by the Court on July 8, 2008 (Dkt. No. 15) is  
7 modified as follows:

8 (a) Appellant Grace Miles ("Appellant") shall file and serve her opening  
9 brief and excerpts of record within 15 days after the date of this Court enters its Order on  
10 Appellees' "Motion to Dismiss Appeal for Lack of Jurisdiction" (the "Motion to Dismiss"),  
11 whenever that may be, if that Order denies the Motion to Dismiss;

12 (b) Appellees shall file and serve their opening brief within 15 days after  
13 service of Appellant's opening brief; and

14 (c) Appellant may file and serve a reply brief within 10 days after Appellees'  
15 service of their opening brief.

16 3. Except as specified in paragraph 2 above, the briefing schedule issued by the  
17 Court on July 8, 2008 (Dkt. No. 15) shall remain in full force and effect.

18  
19  
20 DATED: July 18, 2008

21 /s/ John A. Mendez  
22 HON. JOHN A. MENDEZ  
23 UNITED STATES DISTRICT JUDGE  
24  
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Harold S. Marcus, Clerk  
U. S. BANCY. APP. PANEL  
OF THE NINTH CIRCUIT

**FILED**

JUL 29 2008

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA 94105

AUG 04 2008

FILED 8/4/08

DOCKETED 8/5/08  
DATE INITIAL

E-filing

UNITED STATES BANKRUPTCY COURT  
Northern District of California

**C 08**

**4091**

In re  
ROYCE LEE MAKISHIMA and  
TERRA ANN MAKISHIMA,  
Debtors,

Case No. 08-03037

**JSW**

GRACE MILES,  
Plaintiff,

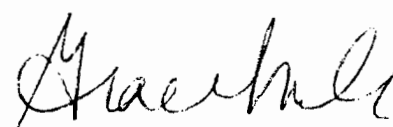
**REQUEST/MOTION  
FOR LEAVE TO APPEAL**

v.

ROYCE LEE MAKISHIMA, et al.,  
Defendant(s).

Plaintiff Grace Miles ("Miles") files this concurrently with her "notice of appeal", not certain if she needs to, considering her other related filings, especially her "motion for leave to file a motion for reconsideration", but does so to protect herself/her case. This request/motion would be to appeal this Court's "order (1) granting defendants' motion to remand and (2) vacating hearings" ("the Order"), Miles apologizes If she did not need to do this, she does not know If this Is a final or Interlocutory order.

July 28, 2008

  
\_\_\_\_\_  
Grace Miles  
Pro Se

E-filing

Aug 11, 2008

RECEIVED  
Harold S. Marquis, Clerk  
U.S. BKCY APP PANEL  
OF THE NINTH CIRCUIT

AUG 13 2008

Mr. Freddie Brown  
Deputy Clerk, BAPFILED  
DOCKETED 8/14/08 FB  
DATE INITIAL

Dear Mr. Brown:

**C 08 4091**  
**JSW**

I received your opening letter.

Thank you. As requested, here is  
the signed + entered order being  
appealed, since I may not have  
attached it to my notice of appeal.

Sincerely,

Grace Miles

Grace Miles

21 Willow Rd. - 22

Menlo Park, CA 94025

July 17, 2008

GLORIA L. FRANKLIN, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA



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Harold S. Marenus, Clerk  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

AUG 13 2008

Signed and Filed: July 16, 2008

A handwritten signature of Thomas E. Carlson in black ink.

THOMAS E. CARLSON  
U.S. Bankruptcy Judge

FILED \_\_\_\_\_  
DOCKETED \_\_\_\_\_  
DATE INITIAL

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

In re

ROYCE LEE MAKISHIMA and  
TERRA ANN MAKISHIMA,

Debtors.

GRACE MILES,

Plaintiff,

vs.

ROYCE LEE MAKISHIMA; A.G. EDWARDS &  
SONS, INC.; TERRA ANN MAKISHIMA,

Defendants.

) Case No. 07-27982 A7

) Chapter 7

) (Pending in the United  
) States Bankruptcy Court for  
) the Eastern District of  
) California)

) Adv. Proc. No. 08-3037 TC

**ORDER (1) GRANTING DEFENDANTS' MOTION TO REMAND  
AND (2) VACATING HEARINGS**

Upon due consideration, and for the reasons stated in the  
accompanying memorandum, the court hereby orders as follows:

(1) Defendants' motion to remand is granted.

(2) The court determines that oral argument would not be  
helpful and therefore vacates the hearing set for July 18, 2008 on  
the motion to remand.

1 (3) Because this court remands the entire action to state  
2 court and will not exercise jurisdiction over the action hereafter,  
3 (a) the status conference set for July 24, 2008 is vacated; and  
4 (b) the hearing set for August 29, 2008 on Plaintiff's motion to  
5 disqualify Morgan Lewis is vacated.

6 (4) The parties to this proceeding may not file a motion for  
7 reconsideration without first obtaining leave of the above-signed.  
8 Bankr. Local Rule 1001-2(b); Local Civ. Rule 7-9.

9 **\*\*END OF ORDER\*\***

**FILED**

AUG 11 2008

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CARECEIVED  
Harold S. Maranus, Clerk  
U. S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

AUG 14 2008

FILED

E-filing

DOCKETED

8/14/08

DATE

FB

INITIAL

## UNITED STATES BANKRUPTCY COURT

Northern District of California

C 08

4091

Adversary Pro. No. 08-03037

JSW

In re  
ROYCE LEE MAKISHIMA and  
TERRA ANN MAKISHIMA,  
Debtors,

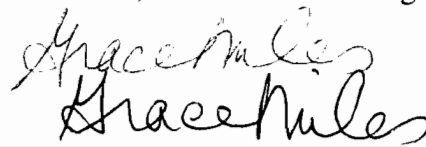
GRACE MILES,  
Plaintiff/Appellant,  
v.

ROYCE LEE MAKISHIMA, et al.,  
Defendants/Appellees(s).

**DESIGNATION OF RECORD  
& STATEMENT OF ISSUES**

Plaintiff/Appellant Grace Miles ("Miles") filed a Notice of Appeal on July 29, 2008 from Judge Carlson's July 17, 2008, Order (1) Granting Defendants' Motion to Remand and (2) Vacating Hearings. The Contents of the Record may include all filings in this case and some filings from associated cases, state or federal, the order itself, and all documents that pertains to the issue that Miles would discover after obtaining counsel on this issue. Miles reserves the right to file a corrected/amended version of this filing to be more accurate/complete for all parties, since she has not yet found counsel. There is no transcript required on this Order, there was no hearing.

August 8, 2008



Grace Miles  
In Pro Per

**FILED**

AUG 11 2008

UNITED STATES BANKRUPTCY COURT  
SAN FRANCISCO, CA

GRACE MILES  
21 Willow Rd.-22  
Menlo Park, CA 94025  
650.329.8785

UNITED STATES BANKRUPTCY COURT  
Northern District of California

Case No. 08-03037

GRACE MILES,  
Plaintiff/Appellant  
v.  
ROYCE MAKISHIMA, et al.,  
Defendant(s)/Appellees

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am over the age of 18 years and not a party to the above-entitled action..

On August 8, 2008, I served a copy of: DESIGNATION OF RECORD &  
STATEMENT OF ISSUES

by placing a true copy(ies) of said document(s) in a postage paid envelope addressed to: Lindsey Schroeder, Morgan Lewis, 3000 El Camino Real, Ste.700, Palo Alto, CA 94306

and depositing said envelope in the U.S. Mail.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 8, 2008, at San Francisco, California.

Douglas F Carlson  
print name

[Signature]  
signature



**RECEIVED**  
Harold S. Marans, Clerk  
U. S. BICY. APP. PANEL  
OF THE NINTH CIRCUIT

AUG 18 2008

**FILED**  
**DOCKETED** 8/18/08 **FB**  
DATE INITIAL

E-filing

08 - 1195

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Attorneys for Defendants-Appellees  
Royce Lee Makishima and A.G. Edwards & Sons,  
Inc.

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

**JSW**

In re  
ROYCE LEE MAKISHIMA and TERRA  
ANN MAKISHIMA,  
Debtors.

GRACE MILES,  
Plaintiff,  
v.

ROYCE LEE MAKISHIMA, et al.,  
Defendant(s).

Bk. Case No. [None Assigned]<sup>1</sup>

Chapter 7

Adv. Proc. No. 08-03037

**ROYCE LEE MAKISHIMA AND A.G.  
EDWARDS & SONS, INC.'S COUNTER-  
DESIGNATION OF ADDITIONAL ITEMS  
TO BE INCLUDED IN THE RECORD ON  
APPEAL**

[Appeal from "Order (1) Granting Defendants'  
Motion to Remand and (2) Vacating Hearings"  
(Dkt. No. 50)]

[No Hearing Required]

<sup>1</sup> The main bankruptcy case is pending in the United States Bankruptcy Court for the Eastern District of California, Case No. 07-27982-A-7. Other than the adversary proceeding number set forth above, no bankruptcy case number has been assigned by the United States Bankruptcy Court for the Northern District of California.

MORGAN, LEWIS &  
BOCKIUS LLP  
ATTORNEYS AT LAW  
PALO ALTO

DB2/20807335.2

Appellees Royce Lee Makishima and A. G. Edwards & Sons, Inc. (together, the "Appellees"), pursuant to Rule 8006 of the Federal Rules of Bankruptcy Procedure, hereby submit this Counter-Designation of Items to be Included in the Record on Appeal from the Bankruptcy Court's "Order (1) Granting Defendants' Motion to Remand and (2) Vacating Hearings," entered July 17, 2008.

Date	Docket #	Document
04/28/2008	1	Notice of Removal of Action
04/28/2008	2	Notice of Status Conference In A Case Removed To Bankruptcy Court to be held on 7/24/2008 at 10:00 AM at San Francisco Courtroom 23 - Carlson. Filed by Plaintiff Grace Miles. (mw, ) (Entered: 04/28/2008)
04/28/2008	3	Adversary Cover Sheet (RE: related document(s) 1 Complaint filed by Plaintiff Grace Miles). (mw, ) (Entered: 04/28/2008)
04/29/2008	4	Order Regarding Initial Disclosures and Discovery Conference. (mw, ) (Entered: 04/29/2008)
04/30/2008	6	Certificate of Service (RE: related document(s) 1 Complaint). Filed by Plaintiff Grace Miles (ac, ) (Entered: 05/02/2008)
05/01/2008	5	BNC Certificate of Mailing - Electronic Order (RE: related document(s) 4 Discovery Order). Service Date 05/01/2008. (Admin.) (Entered: 05/01/2008)
05/08/2008	7	Statement of Pursuant to Rule 9027(e)(3) of the Federal Rules of Bankruptcy Procedure. Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 05/08/2008)
05/08/2008	8	Certificate of Service. Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 05/08/2008)
05/12/2008	9	Certificate of Service (RE: related document(s) 2 Notice of Status Conference). Filed by Plaintiff Grace Miles (ac, ) (Entered: 05/15/2008)
05/12/2008	10	Certificate of Service (RE: related document(s) 4 Discovery Order, 1 Complaint, 2 Notice of Status Conference). Filed by Plaintiff

1			Grace Miles (ac, ) (Entered: 05/15/2008)
2			
3	05/28/2008	11	Motion to Abstain and Remand <i>Defendants A.G. Edwards &amp; Sons, Inc. and Royce Makishima's Motion to Remand</i> Filed by
4			Defendants A.G. Edwards & Sons, Inc., Royce Makishima.
5			(Schroeder, Lindsey) (Entered: 05/28/2008)
6	05/28/2008	12	Notice Regarding <i>Notice of Hearing on Defendants A.G. Edwards &amp; Sons, Inc. and Royce Makishima's Motion to Remand</i> Filed by
7			Defendants A.G. Edwards & Sons, Inc., Royce Makishima.
8			(Schroeder, Lindsey) (Entered: 05/28/2008)
9	05/28/2008	13	Memorandum of Points and Authorities in Support of <i>Defendants A.G. Edwards &amp; Sons, Inc. and Royce Makishima's Motion to</i>
10			<i>Remand</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce
11			Makishima (Schroeder, Lindsey) (Entered: 05/28/2008)
12	05/28/2008	14	Declaration of Lindsey K. Schroeder in Support of <i>Defendants A.G. Edwards &amp; Sons, Inc. and Royce Makishima's Motion to</i>
13			<i>Remand</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce
14			Makishima (Schroeder, Lindsey) (Entered: 05/28/2008)
15	05/28/2008	15	Declaration of Lindsey K. Schroeder in Support of <i>Defendants A.G. Edwards &amp; Sons, Inc. and Royce Makishima's Motion to</i>
16			<i>Remand</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce
17			Makishima (Attachments: # 1 Declaration Declaration of Lindsey
18			K. Schroeder In Support of Defendants A.G. Edwards & Sons, Inc.
19			and Royce Makishima's Motion to Remand Part 2# 2 Declaration
20			Declaration of Lindsey K. Schroeder In Support of Defendants
21			A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to
22			Remand Part 3# 3 Declaration Declaration of Lindsey K.
23			Schroeder In Support of Defendants A.G. Edwards & Sons, Inc.
24			and Royce Makishima's Motion to Remand Part 2# 4 Declaration
25			Declaration of Lindsey K. Schroeder In Support of Defendants
26			A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to
27			Remand Part 5# 5 Declaration Declaration of Lindsey K.
28			Schroeder In Support of Defendants A.G. Edwards & Sons, Inc.
			and Royce Makishima's Motion to Remand Part 6# 6 Declaration
			Declaration of Lindsey K. Schroeder In Support of Defendants
			A.G. Edwards & Sons, Inc. and Royce Makishima's Motion to
			Remand Part 7# 7 Declaration Declaration of Lindsey K. Schroeder
			In Support of Defendants A.G. Edwards & Sons, Inc. and Royce
			Makishima's Motion to Remand Part 8) (Schroeder, Lindsey)
			(Entered: 05/28/2008)
25	05/28/2008	16	Certificate of Service . Filed by Defendants A.G. Edwards & Sons,
26			Inc., Royce Makishima (Schroeder, Lindsey) (Entered:
27			05/28/2008)
27	05/29/2008	17	Corrected Certificate of Service <i>Errata to Certificate of Service</i>
28			<i>Regarding Defendants A.G. Edwards &amp; Sons, Inc. and Royce</i>

1			<i>Makishima's Motion to Remand</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 05/29/2008)
2			
3	05/29/2008	18	Certificate of Service . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 05/29/2008)
4			
5	05/29/2008	19	Request To Disqualify Morgan Lewis From Representation Of Client. Filed by Plaintiff Grace Miles (cog, ) (Entered: 06/02/2008)
6			
7	05/29/2008	20	Request For Stay Of Proceedings. Filed by Plaintiff Grace Miles (cog, ) (Entered: 06/02/2008)
8			
9	05/29/2008	21	Certificate of Service (RE: related document(s) 20 Document, 19 Document). Filed by Plaintiff Grace Miles (cog, ) (Entered: 06/02/2008)
10			
11	07/03/2008	22	Ex-Parte Motion To Stay Pending Appeals, Etc. Filed by Plaintiff Grace Miles (RE: related document(s) 1 Complaint filed by Plaintiff Grace Miles) . (cog, ) (Entered: 07/08/2008)
12			
13	07/03/2008	23	Notice Of Related Adversary Proceeding (RE: related document(s) 1 Complaint filed by Plaintiff Grace Miles). Filed by Plaintiff Grace Miles. (cog, ) (Entered: 07/08/2008)
14			
15	07/08/2008	28	Motion To Withdraw Reference. Filed by Plaintiff Grace Miles (cog, ) (Entered: 07/11/2008)
16			
17	07/08/2008	29	Plaintiffs Opposition To Defendants' Motion To Remand (RE: related document(s) 11 Motion to Abstain and Remand). Filed by Plaintiff Grace Miles (cog, ) (Entered: 07/11/2008)
18			
19	07/09/2008	24	Order (RE: related document(s) 22 Motion to Stay Pending Appeal filed by Plaintiff Grace Miles). (mw, ) (Entered: 07/10/2008)
20			
21	07/09/2008	25	Certificate of Service (RE: related document(s) 23 Notice). Filed by Plaintiff Grace Miles (mw, ) (Entered: 07/10/2008)
22			
23	07/10/2008	26	Emergency Motion For Stay Pending Appeals, Etc, Declaration In Support Of, & Proposed Order. Filed by Plaintiff Grace Miles (mw, ) ERROR: Court will redocket. Modified on 7/10/2008 (mw, ). (Entered: 07/10/2008)
24			
25	07/10/2008	27	Emergency Motion For Stay Pending Appeals, Etc, Declaration In Support Of, & Proposed Order. Filed by Plaintiff Grace Miles (mw, ) (Entered: 07/10/2008)
26			
27			
28			



1	07/11/2008	30	Brief/Memorandum in Opposition to <i>Opposition of Defendants A.G. Edwards &amp; Sons, Inc. and Royce Makishima to Plaintiff's "Emergency Motion for Stay Pending Appeals, Etc."</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 07/11/2008)
2			
3			
4			
5	07/11/2008	31	Declaration of Lindsey K. Schroeder in Support of <i>Opposition of Defendants A.G. Edwards &amp; Sons, Inc. and Royce Makishima to Plaintiff's "Emergency Motion for Stay Pending Appeals, Etc."</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 07/11/2008)
6			
7			
8	07/11/2008	32	Declaration of Asa S. Hami in Support of <i>Opposition of Defendants A.G. Edwards &amp; Sons, Inc. and Royce Makishima to Plaintiff's "Emergency Motion for Stay Pending Appeals, Etc."</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 07/11/2008)
9			
10			
11	07/11/2008	33	Certificate of Service. Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 07/11/2008)
12			
13	07/11/2008	34	Reply to <i>Reply of Defendants A.G. Edwards &amp; Sons, Inc. and Royce Makishima In Support of Motion to Remand</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 07/11/2008)
14			
15			
16	07/11/2008	35	Certificate of Service. Filed by Defendants A.G. Edwards & Sons, Inc., Royce Makishima (Schroeder, Lindsey) (Entered: 07/11/2008)
17			
18	07/11/2008	36	Motion for continuance, request for shortening of time and declaration and proposed order. Filed by Plaintiff Grace Miles. (Copy only) (ac, ) (Entered: 07/14/2008)
19			
20	07/11/2008	37	Certificate of Service (RE: related document(s) 36 Motion Miscellaneous Relief). Filed by Plaintiff Grace Miles (ac, ) (Entered: 07/14/2008)
21			
22	07/11/2008	38	Corrected emergency Motion for stay pending appeals, etc, affidavit, & proposed order Filed by Plaintiff Grace Miles . (ac, ) (Entered: 07/14/2008)
23			
24			
25	07/11/2008	39	Request to disqualify Morgan Lewis from representation of client Filed by Plaintiff Grace Miles. (ac, ) (Entered: 07/14/2008)
26			
27	07/11/2008	40	Notice of Hearing (RE: related document(s) 39 Motion Miscellaneous Relief filed by Plaintiff Grace Miles). Hearing scheduled for 8/29/2008 at 09:30 AM at San Francisco Courtroom
28			

1			23 - Carlson. Filed by Plaintiff Grace Miles. (ac, ) (Entered: 07/14/2008)
2			
3	07/11/2008	41	Certificate of Service (RE: related document(s) 38 Motion
4			Miscellaneous Relief, 39 Motion Miscellaneous Relief). Filed by
5			Plaintiff Grace Miles (ac, ) (Entered: 07/14/2008)
6	07/11/2008	42	Certificate of Service (RE: related document(s) 28 Motion for
7			Withdrawal of Reference). Filed by Plaintiff Grace Miles (ac, )
8			(Entered: 07/14/2008)
9	07/11/2008	43	Certificate of Service (RE: related document(s) 27 Motion
10			Miscellaneous Relief). Filed by Plaintiff Grace Miles (ac, )
11			(Entered: 07/14/2008)
12	07/15/2008	44	Brief/Memorandum in Opposition to <i>Opposition of Defendants</i>
13			<i>A.G. Edwards &amp; Sons, Inc. and Royce Makishima to Plaintiff's</i>
14			<i>"Motion for Continuance, Request for Order Shortening Time"</i> .
15			Filed by Defendants A.G. Edwards & Sons, Inc., Royce
16			Makishima (Schroeder, Lindsey) (Entered: 07/15/2008)
17	07/15/2008	45	Declaration of Lindsey K. Schroeder in Support of <i>Opposition of</i>
18			<i>Defendants A.G. Edwards &amp; Sons, Inc. and Royce Makishima to</i>
19			<i>Plaintiff's "Motion for Continuance, Request for Order Shortening</i>
20			<i>Time"</i> . Filed by Defendants A.G. Edwards & Sons, Inc., Royce
21			Makishima (Schroeder, Lindsey) (Entered: 07/15/2008)
22	07/15/2008	46	Certificate of Service. Filed by Defendants A.G. Edwards & Sons,
23			Inc., Royce Makishima (Schroeder, Lindsey) (Entered:
24			07/15/2008)
25	07/16/2008	47	Emergency request/motion/complaint for restraining and/or
26			injunction order, declaration, proposed order Filed by Plaintiff
27			Grace Miles . (ac, ) (Entered: 07/17/2008)
28	07/16/2008	48	Certificate of Service (RE: related document(s) 47 Motion
			Miscellaneous Relief). Filed by Plaintiff Grace Miles (ac, )
			(Entered: 07/17/2008)
	07/16/2008	49	Memorandum RE: (1) Defendants' motion to remand; (2) Plaintiff's
			motions to stay, for continuance, and to disqualify (RE: related
			document(s) 11 Motion to Abstain and Remand filed by Defendant
			Royce Makishima, Defendant A.G. Edwards & Sons, Inc.). (ac, )
			(Entered: 07/17/2008)
	07/16/2008	50	Order (1) Granting Defendants' Motion to Remand and (2)
			Vacating hearings. (Related Doc #11) (ac, ) (Entered: 07/17/2008)
	07/17/2008	54	Notice of intent to file a request/motion for leave to file a motion

1			for reconsideration. (RE: related document(s) 50 Order on Motion to Abstain and Remand). Filed by Plaintiff Grace Miles. (ac, ) (Entered: 07/21/2008)
2			
3	07/18/2008	51	Transmittal Form RE: Order Remanding case back to San Mateo Superior Court. (RE: related document(s) 50 Order on Motion to Abstain and Remand). (ac, ) (Entered: 07/18/2008)
4			
5	07/19/2008	52	BNC Certificate of Mailing - Electronic Order (RE: related document(s) 49 Memorandum Decision, ). Service Date 07/19/2008. (Admin.) (Entered: 07/19/2008)
6			
7	07/19/2008	53	BNC Certificate of Mailing - Electronic Order (RE: related document(s) 50 Order on Motion to Abstain and Remand). Service Date 07/19/2008. (Admin.) (Entered: 07/19/2008)
8			
9	07/21/2008	55	Certificate of Service (RE: related document(s) 54 Notice). Filed by Plaintiff Grace Miles (mw, ) (Entered: 07/23/2008)
10			
11	07/23/2008	56	Objection To Order And Request To Vacate Reverse. (RE: related document(s) 50 Order on Motion to Abstain and Remand). Filed by Plaintiff Grace Miles (mw, ) Additional attachment(s) added on 7/24/2008 (mw, ). (Entered: 07/24/2008)
12			
13	07/23/2008	57	Certificate of Service (RE: related document(s) 56 Objection). Filed by Plaintiff Grace Miles (mw, ) (Entered: 07/24/2008)
14			
15	07/29/2008	58	Notice of Appeal to BAP, Fee Amount \$ 255. (RE: related document(s) 50 Order on Motion to Abstain and Remand). Appellant Designation due by 8/8/2008. Transmission to BAP due by 8/1/2008. Filed by Plaintiff Grace Miles (ac, ) NO FEE PROVIDED. (Entered: 07/30/2008)
16			
17	07/29/2008	59	Request/Motion for Leave to Appeal Filed by Plaintiff Grace Miles. (ac, ) (Entered: 07/30/2008)
18			
19	07/29/2008	60	Motion for leave to file a motion for reconsideration and proposed order Filed by Plaintiff Grace Miles. (ac, ) (Entered: 07/30/2008)
20			
21	07/30/2008	61	Notice of Referral of Appeal to Bankruptcy Appellant Panel (RE: related document(s) 58 Notice of Appeal filed by Plaintiff Grace Miles). (ac, ) (Entered: 07/30/2008)
22			
23	07/30/2008	62	Courts Certificate of Mailing. Number of notices mailed: 3 (RE: related document(s) 58 Notice of Appeal filed by Plaintiff Grace Miles). (ac, ) (Entered: 07/30/2008)
24			
25	07/30/2008	63	Transmission of Notice of Appeal to BAP (RE: related document(s) 58 Notice of Appeal filed by Plaintiff Grace Miles).
26			
27			
28			



1			(ac, ) (Entered: 07/30/2008)
2			
3	07/31/2008	64	Certificate of Service (RE: related document(s)60 Motion
4			Miscellaneous Relief, 59 Motion for Leave to Appeal). Filed by
5			Plaintiff Grace Miles (ac, ) (Entered: 08/04/2008)
6			
7	08/04/2008	65	Order Denying Debtor's Motion To Vacate Order And Denying
8			Leave To File Motion For Reconsideration (Related Doc #60)
9			(cog, ) (Entered: 08/06/2008)
10			
11	08/04/2008	66	Emergency/Ex Parte Request Motion For Stay Pending
12			Reconsideration And/Or Appeal Filed by Plaintiff Grace Miles
13			(cog, ) (Entered: 08/06/2008)
14			
15	08/06/2008	67	Certificate of Service (RE: related document(s) 66 Motion
16			Miscellaneous Relief). Filed by Plaintiff Grace Miles (cog, )
17			(Entered: 08/07/2008)
18			
19	08/08/2008	68	BNC Certificate of Mailing - Electronic Order (RE: related
20			document(s) 65 Order on Motion for Miscellaneous Relief).
21			Service Date 08/08/2008. (Admin.) (Entered: 08/08/2008)
22			
23	08/08/2008	69	Return from BAP case # NC-08-1195 (RE: related document(s)58
24			Notice of Appeal). (ac, ) (Entered: 08/12/2008)
25			
26	08/11/2008	71	Appellant Designation of Contents For Inclusion in Record On
27			Appeal, Statement of Issues on Appeal, (RE: related document(s)
28			58 Notice of Appeal filed by Plaintiff Grace Miles). Appellee
			designation due by 8/21/2008. Filed by Plaintiff Grace Miles (ac, )
			(Entered: 08/12/2008)
	08/11/2008	72	Certificate of Service (RE: related document(s)71 Appellant
			Designation Statement of Issues on Appeal). Filed by Plaintiff
			Grace Miles (ac, ) (Entered: 08/12/2008)
	08/12/2008	70	Order Denying Plaintiff's Emergency/Ex-Parte Request Motion For
			Stay Pending Reconsideration And/or Appeal. (Related Doc #66)
			(mw, ) (Entered: 08/12/2008)
	///		
	///		
	///		
	///		
	///		

1 Appellees reserve the right to modify, restate, and/or supplement the foregoing  
2 counter-designations to the fullest extent permitted by the Bankruptcy Code and Rules.  
3

4 Dated: August 13, 2008

MORGAN, LEWIS & BOCKIUS LLP

5  
6 By Lindsey K. Schroeder  
7 Lindsey K. Schroeder  
8 Attorneys for Defendants-Appellees Royce  
9 Lee Makishima and A.G. Edwards & Sons,  
10 Inc.  
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**RECEIVED**  
 Harold S. Marquis, Clerk  
 U.S. Bankruptcy Court  
 OF THE NINTH CIRCUIT

**AUG 18 2008**

**FILED 8/18/08**  
**DOCKETED 8/20/08** **FB**  
**DATE** **INITIAL**

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**E-filing**

Attorneys for Defendants-Appellees  
 Royce Lee Makishima and A.G. Edwards & Sons,  
 Inc.

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

**C 08 4091**

In re  
 ROYCE LEE MAKISHIMA and TERRA  
 ANN MAKISHIMA,  
 Debtors.

Bk. Case No. [None Assigned]<sup>1</sup>

Chapter 7

Adv. Proc. No. 08-03037

**JSW**

GRACE MILES,  
 Plaintiff,  
 v.  
 ROYCE LEE MAKISHIMA, et al.,  
 Defendant(s).

**ROYCE LEE MAKISHIMA AND A.G.  
 EDWARDS & SONS, INC.'S STATEMENT  
 OF ELECTION TO HAVE APPEAL  
 HEARD BY THE DISTRICT COURT**

[Appeal from "Order (1) Granting Defendants'  
 Motion to Remand and (2) Vacating Hearings"  
 (Dkt. No. 50)]

[No Hearing Required]

<sup>1</sup> The main bankruptcy case is pending in the United States Bankruptcy Court for the Eastern District of California, Case No. 07-27982-A-7. Other than the adversary proceeding number set forth above, no bankruptcy case number has been assigned by the United States Bankruptcy Court for the Northern District of California.

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 BOCKIUS LLP  
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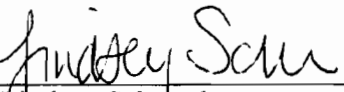
DB2/20801476.1

ROYCE LEE MAKISHIMA AND A.G. EDWARDS  
 & SONS, INC.'S STATEMENT OF ELECTION  
 (ADV. NO. 08-3037)

Pursuant to 28 U.S.C. § 158(c)(1)(B), appellees Royce Lee Makishima and A.G. Edwards & Sons, Inc. hereby elect that the appeal of this Court's "Order (1) Granting Defendants' Motion to Remand and (2) Vacating Hearings" (Dkt. No. 50), commenced by appellant Grace Miles, be heard by the United States District Court.

Dated: August 13, 2008

MORGAN, LEWIS & BOCKIUS LLP

By   
Lindsey Schröder  
Attorneys for Defendants-Appellees  
Royce Lee Makishima and A.G. Edwards  
& Sons, Inc.

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Attorneys for Defendants  
Royce Lee Makishima and A.G. Edwards & Sons,  
Inc.

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re

ROYCE LEE MAKISHIMA and TERRA  
ANN MAKISHIMA,

Debtors.

GRACE MILES,

Plaintiff,

v.

ROYCE LEE MAKISHIMA, et al.,

Defendant(s).

Bk. Case No. [None Assigned]<sup>1</sup>

Chapter 7

Adv. Proc. No. 08-03037

**CERTIFICATE OF SERVICE**

<sup>1</sup> The main bankruptcy case is pending in the United States Bankruptcy Court for the Eastern District of California, Case No. 07-27982-A-7. Other than the adversary proceeding number set forth above, no bankruptcy case number has been assigned by the United States Bankruptcy Court for the Northern District of California.

**CERTIFICATE OF SERVICE**

I am a resident of the State of California and over the age of eighteen years and not a party to the within-entitled action; my business address is 2 Palo Alto Square, 3000 El Camino Real, Suite 700, Palo Alto, California, 94306. On August 13, 2008, I served the within document(s):

**ROYCE LEE MAKISHIMA AND A.G. EDWARDS & SONS, INC.'S  
COUNTER-DESIGNATION OF ADDITIONAL ITEMS TO BE INCLUDED  
IN THE RECORD ON APPEAL;**

**ROYCE LEE MAKISHIMA AND A.G. EDWARDS & SONS, INC.'S  
STATEMENT OF ELECTION TO HAVE APPEAL HEARD BY THE  
DISTRICT COURT; and**

**CERTIFICATE OF SERVICE.**

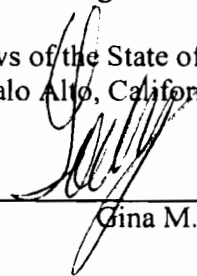
☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Palo Alto, California addressed as set forth below.

Grace Miles  
21 Willow Road, Apt. 22  
Menlo Park, California 94025

In Pro Per

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed on August 13, 2008, at Palo Alto, California.

  
\_\_\_\_\_  
Gina M. Johnson